

**Meeting of the Central Valley Flood Protection Board
August 26, 2010**

Staff Report – Encroachment Permit

**Laton Community Services District
Laton Wastewater Treatment Plant Fencing Project, Fresno County**

1.0 – ITEM

Consider approval of Permit No. 18589 (Attachment B)

2.0 – APPLICANT

Laton Community Services District

3.0 – LOCATION

The project is located south of the City of Laton.
(Kings River/Kings River Designated Floodway, Fresno County, see Attachment A)

4.0 – DESCRIPTION

The project will replace an existing barbed wire fence and a new 4'-6"-high, 5-barbed wire fence will be installed within the Kings River Designated Floodway on the right (north) bank of the Kings River.

5.0 – PROJECT ANALYSIS

The applicant is proposing to replace approximately 650-feet of barbed wire fence along the right bank of the Kings River that protects the Layton Community Services District Waste Water Treatment Facility from unauthorized access. The entire wastewater facility is being fenced but only that portion of the fence that is located inside of the Kings River Designated Floodway is being considered for this application. The north boundary of the Kings River Designated Floodway in the project area coincides with the right bank levee of the Kings River which is a component of the Pine Flat Lake and Kings River Project. The Kings River Conservation District is the sponsor of this project.

5.1 – Hydraulic Analysis

The replacement fence is located near the waterside hinge point of the right bank levee so there is no need for a hydraulic analysis.

5.2 – Geotechnical Analysis

Installation of the replacement fence does not require a geotechnical analysis.

6.0 – AGENCY COMMENTS AND ENDORSEMENTS

The comments and endorsements associated with this project, from all pertinent agencies are shown below:

- The Kings River Conservation District endorsed the project by letter dated February 23, 2010, with conditions. The letter will be incorporated into the permit as Exhibit A.
- The U.S. Army Corps of Engineers 208.10 comment letter has not yet been received for this application. Upon receipt of a favorable letter and review by Board staff it will be incorporated into the permit as Exhibit B.

7.0 – PROPOSED CEQA ANALYSIS:

Board staff has prepared the following CEQA determination:

The County of Fresno, as lead agency under CEQA, approved the project (Laton Wastewater Treatment Plant Fencing Project) and filed a Notice of Exemption on August 2, 2010 with the Fresno County Clerk. Fresno County determined that the project was categorically exempt under a Class 1 Categorical Exemption (CEQA Guidelines Section 15301) covering existing facilities and Class 3 (CEQA Guidelines Section 15303) covering new construction or conversion of small structures.

The Board, acting as a responsible agency under CEQA, has reviewed the County of Fresno's determination and has independently determined that the project is exempt from CEQA under Class 1 Categorical Exemption (CEQA Guidelines Section 15301) covering existing facilities and Class 3 (CEQA Guidelines Section 15303) covering new construction or conversion of small structures.

8.0 – SECTION 8610.5 CONSIDERATIONS

1. Evidence that the Board admits into its record from any party, State or local public agency, or nongovernmental organization with expertise in flood or flood plain management:

The Board will make its decision based on the evidence in the permit application and attachments, this staff report, and any other evidence presented by any individual or group.

2. The best available science that related to the scientific issues presented by the executive officer, legal counsel, the Department or other parties that raise credible scientific issues.

The accepted industry standards for the work proposed under this permit as regulated by Title 23 have been applied to the review of this permit.

3. Effects of the decision on the entire State Plan of Flood Control:

The proposed replacement fence will not impact flows in the Kings River so there will be not effects to the State Plan of Flood Control.

4. Effects of reasonable projected future events, including, but not limited to, changes in hydrology, climate, and development within the applicable watershed:

Effects of reasonable projected future events on the replacement fence should be minimal. Increased flows in the Kings River due to climate changes could necessitate relocation of the fence.

9.0 – STAFF RECOMMENDATION

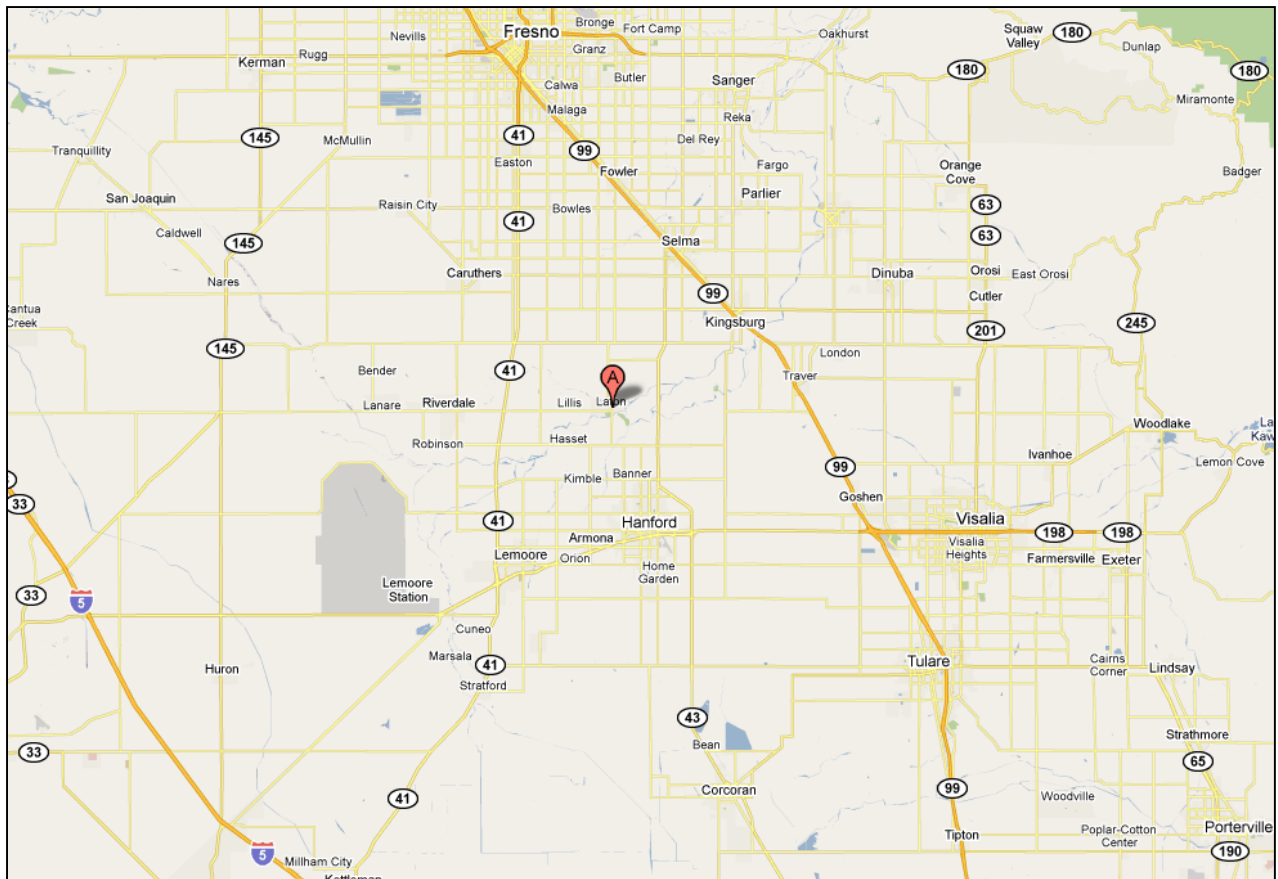
Staff recommends that the Board determine the project to be exempt from CEQA, and to approve the permit conditioned upon receipt and review of a favorable U.S. Army Corps of Engineers comment letter.

10.0 – LIST OF ATTACHMENTS

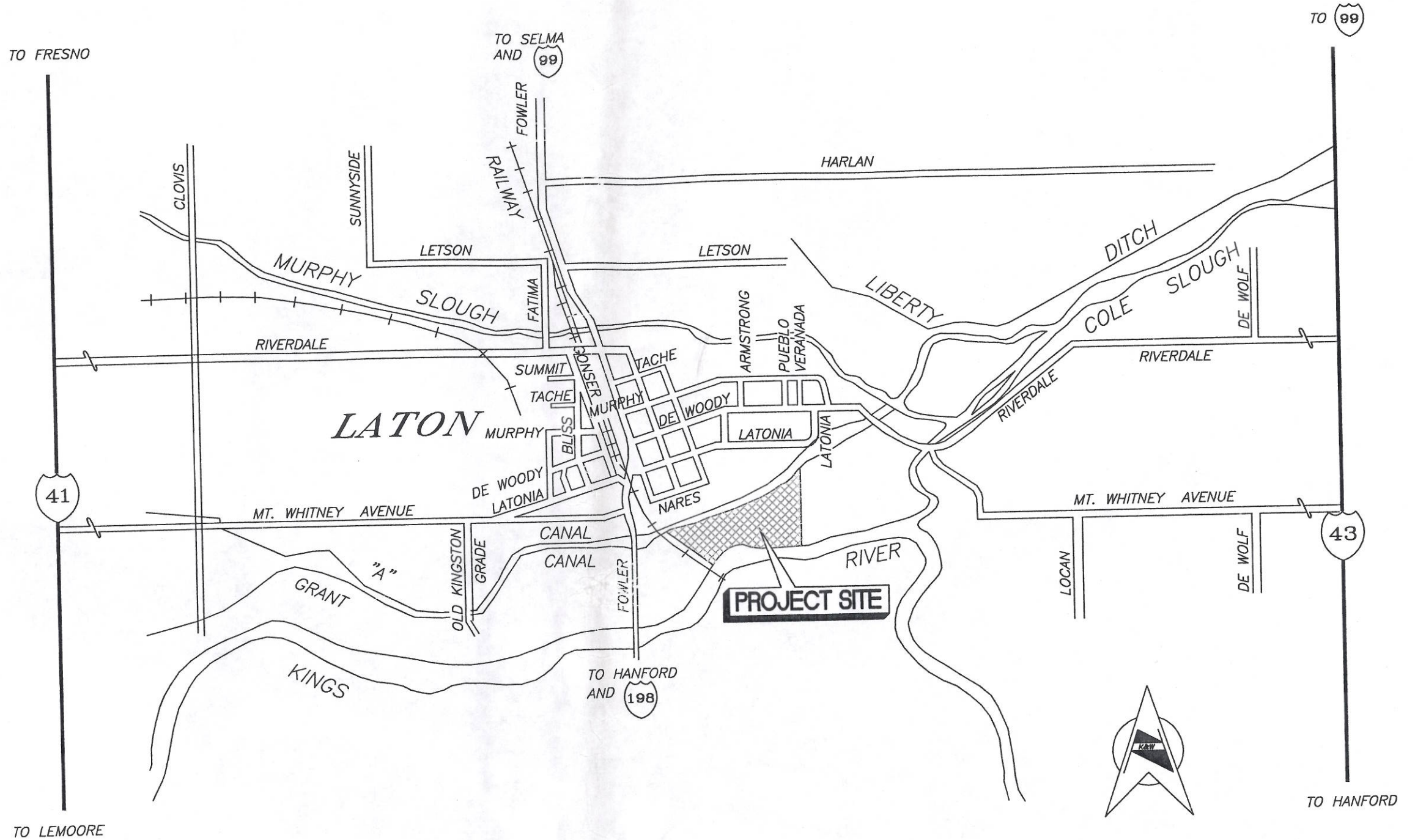
- A. Location Maps and Photos
- B. Draft Permit

Design Review:	Gary Lemon, P.E.
Environmental Review:	Andrea Mauro
Document Review:	Len Marino

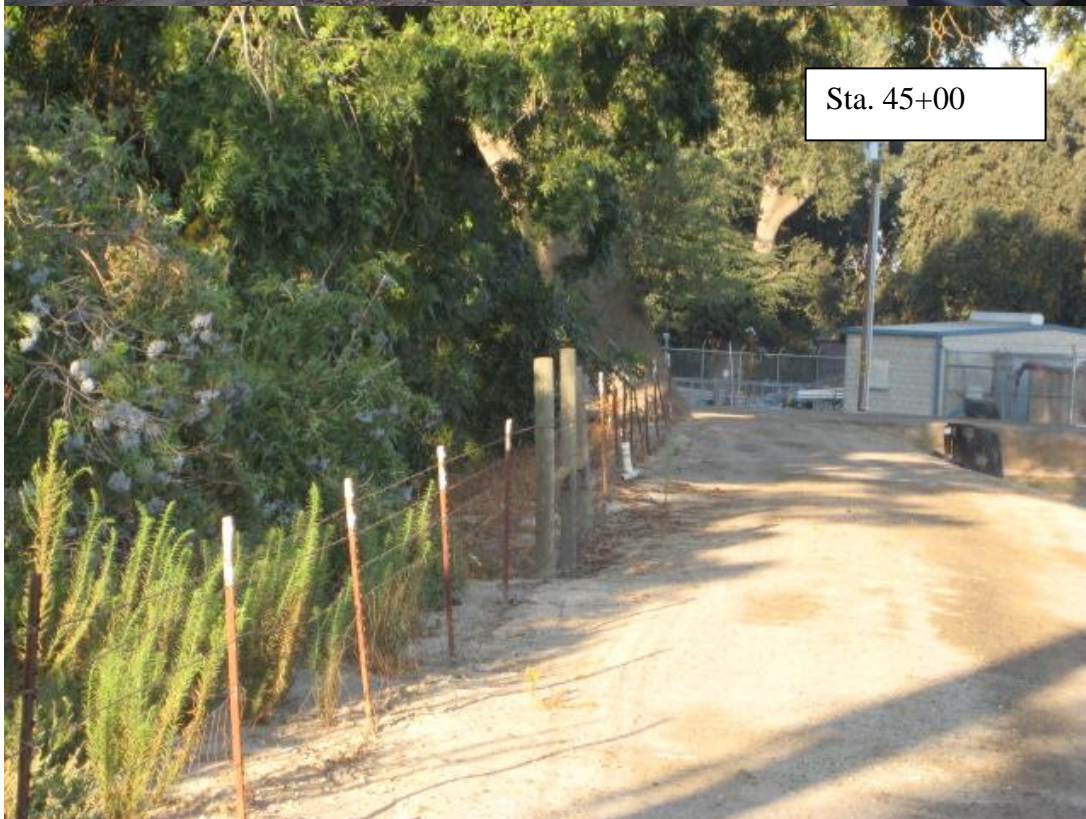
Laton Community Services District
Wastewater Treatment Facilities Fencing Project



Location Map



VICINITY MAP



You are looking west along the right (north) bank levee of the Kings River. Stations increase as you move west along the levee crown. The proposed project will remove and replace the barbed wire fence seen in the photos.



You are looking west along the right (north) bank levee of the Kings River. Stations increase as you move west along the levee crown. The barbed wire fence seen in the photos will be removed and replaced.

DRAFT

STATE OF CALIFORNIA
THE RESOURCES AGENCY
THE CENTRAL VALLEY FLOOD PROTECTION BOARD

PERMIT NO. 18589 BD

This Permit is issued to:

Laton Community Services District
6501 E. Latonia Street
Laton, California 93242

To replace existing barbed wire fence and install a new 4'-6"-high, 5-barbed wire fence within the Kings River Designated Floodway on the right (north) bank of the Kings River. The project is located in Laton (Section 22&27, T17S, R21E, MDB&M, Kings River Conservation District, Kings River, Fresno County).

NOTE: Special Conditions have been incorporated herein which may place limitations on and/or require modification of your proposed project as described above.

(SEAL)

Dated: _____

Executive Officer

GENERAL CONDITIONS:

ONE: This permit is issued under the provisions of Sections 8700 – 8723 of the Water Code.

TWO: Only work described in the subject application is authorized hereby.

THREE: This permit does not grant a right to use or construct works on land owned by the Sacramento and San Joaquin Drainage District or on any other land.

FOUR: The approved work shall be accomplished under the direction and supervision of the State Department of Water Resources, and the permittee shall conform to all requirements of the Department and The Central Valley Flood Protection Board.

FIVE: Unless the work herein contemplated shall have been commenced within one year after issuance of this permit, the Board reserves the right to change any conditions in this permit as may be consistent with current flood control standards and policies of The Central Valley Flood Protection Board.

SIX: This permit shall remain in effect until revoked. In the event any conditions in this permit are not complied with, it may be revoked on 15 days' notice.

SEVEN: It is understood and agreed to by the permittee that the start of any work under this permit shall constitute an acceptance of the conditions in this permit and an agreement to perform work in accordance therewith.

EIGHT: This permit does not establish any precedent with respect to any other application received by The Central Valley Flood Protection Board.

NINE: The permittee shall, when required by law, secure the written order or consent from all other public agencies having jurisdiction.

TEN: The permittee is responsible for all personal liability and property damage which may arise out of failure on the permittee's part to perform the obligations under this permit. If any claim of liability is made against the State of California, or any departments thereof, the United States of America, a local district or other maintaining agencies and the officers, agents or employees thereof, the permittee shall defend and shall hold each of them harmless from each claim.

ELEVEN: The permittee shall exercise reasonable care to operate and maintain any work authorized herein to preclude injury to or damage to any works necessary to any plan of flood control adopted by the Board or the Legislature, or interfere with the successful execution, functioning or operation of any plan of flood control adopted by the Board or the Legislature.

TWELVE: Should any of the work not conform to the conditions of this permit, the permittee, upon order of The Central Valley Flood Protection Board, shall in the manner prescribed by the Board be responsible for the cost and expense to remove, alter, relocate, or reconstruct all or any part of the work herein approved.

SPECIAL CONDITIONS FOR PERMIT NO. 18589 BD

THIRTEEN: All work approved by this permit shall be in accordance with the submitted drawings and specifications except as modified by special permit conditions herein. No further work, other than that approved by this permit, shall be done in the area without prior approval of the Central Valley Flood Protection Board.

FOURTEEN: The permittee is responsible for all liability associated with construction, operation, and maintenance of the permitted facilities and shall defend, indemnify, and hold the Central Valley Flood Protection Board and the State of California; including its agencies, departments, boards, commissions, and their respective officers, agents, employees, successors and assigns (collectively, the "State"), safe and harmless, of and from all claims and damages arising from the project undertaken pursuant to this permit, all to the extent allowed by law. The State expressly reserves the right to supplement or take over its defense, in its sole discretion.

FIFTEEN: The permittee shall defend, indemnify, and hold the Central Valley Flood Protection Board and the State of California, including its agencies, departments, boards, commissions, and their respective officers, agents, employees, successors and assigns (collectively, the "State"), safe and harmless, of and from all claims and damages related to the Central Valley Flood Protection Board's approval of this permit, including but not limited to claims filed pursuant to the California Environmental Quality Act. The State expressly reserves the right to supplement or take over its defense, in its sole discretion.

SIXTEEN: The Central Valley Flood Protection Board, Department of Water Resources, and the Kings River Conservation District shall not be held liable for any damages to the permitted encroachment(s) resulting from flood fight, operation, maintenance, inspection, or emergency repair.

SEVENTEEN: No construction work of any kind shall be done during the flood season from November 1st to July 15th without prior approval of the Central Valley Flood Protection Board.

EIGHTEEN: The permittee shall contact the Department of Water Resources by telephone, (916)

574-0609, and submit the enclosed postcard to schedule a preconstruction conference. Failure to do so at least 10 working days prior to start of work may result in delay of the project.

NINETEEN: Cleared trees and brush shall be completely burned or removed from the Kings River Designated Floodway, and downed trees or brush shall not remain in the Kings River Designated Floodway during the flood season from November 1st to July 15th.

TWENTY: The post holes left by the removal of the existing fence shall be backfilled and compacted to a density equal to that of the adjacent undisturbed material.

TWENTY-ONE: The levee section shall be restored to at least the same condition that existed prior to commencement of work.

TWENTY-TWO: Keys shall be provided to the Kings River Conservation District and the Department of Water Resources for all locks on gates that provide access to the floodway, levee ramp, levee toe, and along the levee crown.

TWENTY-THREE: The barbed wire fence shall be kept clear of vegetation.

TWENTY-FOUR: Debris that may accumulate on the fence shall be cleared off and disposed of outside of the Kings River Designated Floodway after each period of high water.

TWENTY-FIVE: The permittee shall maintain the permitted encroachment(s) and the project works within the utilized area in the manner required and as requested by the authorized representative of the Department of Water Resources or any other agency responsible for maintenance.

TWENTY-SIX: The permittee may be required, at permittee's cost and expense, to remove, alter, relocate, or reconstruct all or any part of the permitted encroachment(s) if removal, alteration, relocation, or reconstruction is necessary as part of or in conjunction with any present or future flood control plan or project or if damaged by any cause. If the permittee does not comply, the Central Valley Flood Protection Board may remove the encroachment(s) at the permittee's expense.

TWENTY-SEVEN: If the project, or any portion thereof, is to be abandoned in the future, the permittee or successor shall abandon the project under direction of the Central Valley Flood Protection Board and Department of Water Resources, at the permittee's or successor's cost and expense.

TWENTY-EIGHT: The permittee shall comply with all conditions set forth in the letter from Kings River Conservation District dated February 23, 2010, which is attached to this permit as Exhibit A and is incorporated by reference.

TWENTY-NINE: The permittee shall comply with all conditions set forth in the letter from the Department of the Army dated _____, which is attached to this permit as Exhibit B and is incorporated by reference.

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4886 East Jensen Avenue
Fresno, California 93725

Tel: 559-237-5567

Fax: 559-237-5560

www.krcd.org

February 23, 2010

Mr. Mike Paterson
Floodway Protection Section
Central Valley Flood Protection Board
3310 El Camino Avenue, Suite LL40
Sacramento, California 95821

Re: Application KRCDD No. 800.05-242
Laton Community Services District Wastewater Treatment Facilities

Dear Mr. Patterson:

Enclosed are four (4) copies of an application and accompanying data submitted by Mr. James H. Wegley on behalf of Laton Community Services District Wastewater Treatment Facilities, for approval to replace an existing barbed wire fence and install a new 4'-6" 5-barbed wire fence along the waterside of the project levee on the Main Kings River. The project is located in Unit 13, L.M. 2.5, C.M. 29.9 in Section 22 and 27, T.17S., R.21E., M.D.B. & M. of Kings County.

The Kings River Conservation District (District) has no objection to the approval of this Application subject to the following conditions:

1. That the applicant shall maintain the project works within the utilized area in the manner required and as requested by the District.
2. That the applicant shall repair any damages within the utilized area caused by its operations under this permit.
3. That the applicant shall assume all responsibility for removal or protection of the project in the event that any levee repairs or reconstruction is necessary.
4. The applicant upon failure to conform to any of the conditions the District specified this permit shall, at the option of the District, cease and terminate and the District may remove the encroachment or improvement above described together with any appurtenances thereto located within the easement and right of way of the District and applicant shall promptly pay to Kings River Conservation District all costs and expenses incurred in such removal. The exercise of this right by the District will not be in an arbitrary and capricious manner.
5. That the applicant notifies the Kings River Conservation District, 4886 East Jensen Avenue, Fresno California 93725, (559) 237-5567 at least three (3) days prior to commencement of work.

If you have any questions, please contact Keith Seligman at (559) 237-5567 or (559) 217-4285.

BOARD OF DIRECTORS

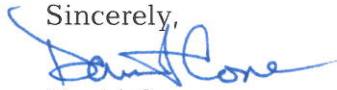
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Division VI, CEIL W. HOWE, JR., Stratford • At Large, DR. DAVID CEHRS, Sanger

OFFICERS

MARK McKEAN, President • BRENT GRAHAM, Vice President • DAVID ORTH, General Manager-Secretary • RANDY SHILLING, Auditor

Please provide the District with a copy of the Board's action taken on this application.

Sincerely,



David Cone
Deputy General Manager,
Water/Environmental Resources & Flood Control

DC/KS/sjs

Enclosures: As Stated

L10-0037
File: 800.05.242